

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on January 31, 2005 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margaret H. Campbell (D)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Bob Lake (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: Chris Lohse, Legislative Branch
Eddie McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 435, 1/26/2005
Executive Action: HB 396; HB 336; HB 258

REP. WINDHAM asked to speak to a point of special privilege. She said there had been some confusion as to what was expected of committee members during the questioning period of the hearing. As she understands it, members are allowed to ask questions that are related to the bill and members are not suppose to engage in a continuing and ongoing dialogue with any of the witnesses. She believed it was extremely important, out of respect for each other and the witnesses, that the committee members direct questions to the bill.

HEARING ON HB 435

Opening Statement by Sponsor:

Sponsor: REPRESENTATIVE GARY BRANAE, HD 54, Billings

REP. GARY BRANAE opened the hearing on **HB 435**, the Governor's Best and Brightest Post Secondary Scholarship Program, which he brought to the committee at the request of the governor. The program in the bill is designed to encourage Montana's most talented high school graduates or Montana high school graduates with financial needs, to acquire a post secondary education by attending an in-state post secondary institution. It would provide 970 new scholarships to Montanans and will result in a 83% increase in financial aid to students. Funding would go from \$3.6 million to \$6.6 million. The scholarships will go to students who graduate from accredited Montana high schools, both public and private. The scholarships are split between merit and needs based for all public institutions of higher education in Montana. The chart on display showed a breakdown of the need and merit based scholarships. Under need based scholarships, each accredited high school in Montana will receive a scholarship (about 180) for a two-year program. In addition, there will be 100 scholarships that would be awarded statewide to students who are considering health science degrees or certificates. The third category would give 220 scholarships for technical degrees or certificates. The program would see a total of 500 new scholarships; each scholarship would be in the amount of \$1,000. They would be renewable scholarships that could be used for both years of the two year program if the student met certain restrictions.

The merit-based scholarships would be awarded to each accredited high school in the state. Again, that would be in the neighborhood of 180 scholarships and each one would be for \$1,000. At large there would be 40 additional scholarships awarded for \$2,000 each year, and lastly there would be 250 at large merit based scholarships for two year programs. There

would be 470 merit scholarships, which gives a total of about 970 scholarships in the bill.

The bill would also establish a Governor's Best and Brightest Scholarship Advisory Council to work with the Board of Regents for Higher Education in awarding and administering the scholarship program. The board would also be able to accept donations from public and private sources. It is important to emphasize that the scholarships would be renewable if the student met the criteria set up by the council and those found in the bill.

As a high school counselor it became very evident to the **SPONSOR** that the state needs to provide help to some students to attend post secondary education and to encourage them to stay in the state. He believed it was important that the bill emphasized the two-year programs available in the state. At economic conferences that he attended, the importance of education was stressed. A strong economy and a well-founded school system are necessary for people to move to Montana.

Amendments were passed out for the bill. **REP. BRANAE** explained the amendments to the bill. Many of the amendments dealt with the number 180. Before the bill was written it was thought it would address only public schools. Since that time it was decided to add any accredited high school, which would include private schools. Therefore, 180 is not correct when talking about the total number of schools that would be involved. The money used from the scholarships must be used at a public institution of higher learning in the State of Montana because the constitution specifically outlaws the use of government funds for sectarian schools. The last amendment specifies that the program is an obligation of the state. Currently there are five million dollars in HB 2 to pay for the program. In future sessions, should money be unavailable, the program does not obligate the Board of Regents to fund it.

[EXHIBIT \(edh24a01\)](#)

Proponents' Testimony:

GOVERNOR BRIAN SCHWEITZER rose in support of the bill. He had spent the last couple of years traveling across Montana. He had heard from businesses, small and large, that they need quality graduates for the jobs that they are creating. In many cases the graduates that have jobs waiting for them in Montana are not necessarily for students graduating from the universities. They need people trained in medical technologies; Montana hospitals are bringing people from outside of Montana to take these jobs because Montana is not graduating medical technologists fast

enough from Montana's two-year institutions. There are many more areas in Montana's businesses that have an inadequate number of people to fill necessary jobs.

He suggested that the numbers in the bill are skewed toward Montana colleges of technology. Today Montana has the highest tuition in America at its colleges of technology. Montana's wages are near the lowest. This inequity for Montana families to access higher education has become a gap that is wider than any place in the nation. As the Governor of Montana, he has every intention of attracting new businesses to come to Montana. He has every intention of attracting new investment for Montana. Everyone of the new investors for the State of Montana, whether they be high technology or value added for agriculture, for minerals, or energy business; they are going to ask if the state has enough people trained in the needed disciplines, and can they be trained rapidly. Today, he would have to say, "Probably not." Montana has not invested in its colleges of technology; it has not created opportunities for Montana families to be able to afford to go to the colleges of technology. Montana needs to do a better job if it is going to compete in terms of economic development. Montana must be able to rapidly train the workers of tomorrow. In many cases, those workers of tomorrow aren't eighteen years old and in high school. They are people who are already working in Montana. They might be thirty-five years old. As the economy changes and the kinds of jobs change, it is very likely that the workforce will need rapid training.

During the last dozen years, Montana's commitment to high education has decreased. It has decreased in the percentage that Montana pays for scholarships and for the cost of education. Twelve years ago the State of Montana paid two-thirds of the cost of a university degree and the student paid one-third. Today that is reversed. For families of limited means, the dream of a college education is slipping away. The people between the ages of 19 and 25 that are most likely to leave the state are the state's best and brightest. They are leaving before they start college. They are going where an education costs less money than it does in the state and often they stay in the state they were educated in. In many cases, after students graduate from Montana colleges they are gone because they are not able to find the jobs in the disciplines they have been trained for.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 23}

Sheila Stearns, Commissioner of Higher Education, rose in support of **HB 435**. She presented written testimony.

EXHIBIT(edh24a02)

Bud Williams, Office of Public Instruction (OPI), Deputy Superintendent, rose in favor of the bill on behalf of Superintendent of Schools, Linda **McCulloch**. He presented written testimony.

EXHIBIT(edh24a03)

{Tape: 1; Side: A; Approx. Time Counter: 23 - 30}

{Tape: 1; Side: B}

George Dennison, President, University of Montana, rose in support of the bill. The bill will provide need- and merit-based grants which are very important in the context of today. Going back a number of years, there was a grant support, (federal and state) and loan base was available. Today it is the reverse. He didn't believe a piece of legislation like the bill would eliminate loans, but it would make a difference for people who are interested in pursuing their higher education and are very fearful of going further into debt. This year the average debt of students who graduate from Montana post secondary schools is \$19,000. Grant based aid is going to be very important.

Geoff Gamble, President, Montana State University, said, "Bravo." The bill is long overdue. He has heard all over the state about the aggressiveness of the Dakotas seeking Montana graduates for their schools. The Governor of North Dakota reported to President Gamble that his state is investing in higher education and it plans to attract Montana students. The bill will help counter that attack.

Jessica Grennan, Associated Students of the University of Montana, presented written testimony from one hundred University of Montana students, Montana State College of Technology in Great Falls, and Gale L. Price, Association Student Body President of the University of Montana. She also presented written testimony.

EXHIBIT(edh24a04)

EXHIBIT(edh24a05)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.5}

Kala French, Student Regent, reported that she was a product of Montana schools and the Montana University System. **Ms. French** believes **HB 435** could be the decision point for some high school seniors when deciding to further their education after high school. It is her belief that the bill represents a balanced approach to both the state's four-year and two-year schools, and to meet merit- and need-based aid.

Kelly Paul, Student Body President of Montana State University, Northern, testified that he had noticed that some students on his campus are carrying more than one job to offset the cost of

tuition. The bill will mean a great deal to incoming freshman at his school.

Ali Tabibnejad, Iranian University of Montana student, came to Montana in 1998 with the dream of earning an education and finding a good job. Five and a half years later with 2 1/2 degrees from the University of Montana, he is a qualified person for any job. He has invested more than \$25,000 in student debt that he cannot pay off working in Montana. A cousin came to the United States about the same time Mr. Tabibnejad arrived, and she went to Georgia Tech, which is one of the top ten technological schools in the nation; and she paid \$1,800 for her tuition and the Pell grants she received more than covered the costs. He hated leaving his home when he came to our country. He assured the committee that it is not hard to fall in love with Montana and he will not enjoy letting it go to find a job. If there had been more scholarships available, he believed he would have been qualified for them. The bill will provide students who love Montana and want to stay here, the opportunity to do so.

Leah Johnson, Student Body President, Helena Capital High School, informed the committee that she is a senior, taking a full load of classes, has a job, and participates in athletics. As president of the student body she has learned that she must not represent just herself, but many small groups of people and everyone as a whole. She expressed that the committee had to think of all the students in Montana who cannot afford college. This bill will allow many students to go to college that would not have been able to go. She has applied to several colleges and presently it is cheaper for her to go to private school in Ohio, than it is to go in Montana.

Lindsay Bayuk, Helena Capital High School Student Representative to the Helena School Board, rose in support of the bill. She reminded the committee that college costs are increasing across the nation and in Montana. The money a student receives in scholarships, for the most part, determines where the student will go to college and probably where he/she will spend the rest of his/her life. Montana's average income is \$9,000 below the national average; 25% of Montana's population is younger than eighteen years of age, and 15% of its population is below the poverty level. That means there are many students who cannot afford to go to college when they should. Montana's economy will benefit greatly if more of it's young people go on to school. She wanted to note that in the future she did not want to see this bill as a substitute for education funding. It was her opinion that when it comes to budget cuts, education funding should not be cut.

Ashley Zuelke, National Honor Society Secretary at Helena Capital High School, informed the committee that she attends school, edits the school year book and holds a part-time job because she feels it is very important to save money to attend college. She will be receiving the Presidential Leadership Scholarship from the University of Montana. There is not enough money available in scholarships for qualified students. Receiving the scholarship determined whether she would be able to attend school in state. She spoke on behalf of her friend Clair Lee Charleton in support of the bill.

Orrin Tieberi, Speech and Debate Team at Helena Capital High School, testified that he moved to Montana as a young child because his parents felt he would get a good education here. He believes the scholarships in the bill are very necessary. More and more people are attending schools out of state. Many of his friends are doing so because they believe they will get a better education; and the costs are much less even if one attends a private university.

{Tape: 1; Side: B; Approx. Time Counter: 5.5 - 21}

Kimberly Pappas, University of Montana student, rose in support of the bill and presented written testimony.

[EXHIBIT](#)(edh24a06)

Debbie Bjerke, Jefferson High School in Boulder, informed the committee she is a hopeful candidate for the Presidential Scholarship. The fear of not having enough money to attend post secondary education is great among her friends. Many of her classmates are going into the service because they will receive money for their education. She urged support of the bill.

Matt Singer, economics student at the University of Montana noted the argument between the outdoor guides and the fire fighters. They are in different camps when it comes to the thought of whether there should be forest fires. The fire fighters want it to happen so they can make enough money to attend school, and guides don't want forest fires so they can make enough money to go back to school. This is a sad situation for students to be part of.

Megan Dumas, Associated Students Of Montana State University, said the most common comment one hears on campus is about the financial burden of college education. They believe the bill will afford more students the opportunity to attend post secondary institutions.

Don Lundby, President Phi Theta Kappa, Montana State University, Great Falls, presented written testimony.

EXHIBIT(edh24a07)

Jesse Piedfort, University of Montana student, rose in support of the bill and presented written testimony.

EXHIBIT(edh24a08)

Opponents' Testimony:

Steve White, Montana Coalition of Home Educators, testified that his organization is statewide and represents home educating families who are determined to raise their children in the best way possible and train them up to be productive citizens in the State of Montana. He is an opponent to the bill because of the current language in the bill. He presented written testimony.

EXHIBIT(edh24a09)

{Tape: 2; Side: A}

Arlette Randash, proposed that the scholarships be given based on SAT and ACT test scores because she believed there are approximately 92 private schools in Montana, found in 33 different counties; and their students would not be eligible as the bill is written. In her search for information, it appears there are 10,300 students enrolled in private schools in Montana. She believed that many of the private schools might not be accredited, at least as public schools are accredited by the State of Montana. It is her belief that there are accrediting agencies other than the state. Many of the private schools are not accredited in any way. She believed that SAT and ACT scores would be a much fairer way of awarding the scholarships. She believed the bill should be scrutinized from a fiscal point of view. She wasn't sure the taxpayers of Montana can afford the bill. The 10,300 students enrolled in private schools have saved the Montana taxpayers many dollars because the parents are paying for the students' education out of their pocket; but they have also paid the taxes levied against them in support of public schools. It would not be fair to cut those students out of eligibility when the students are approaching their post secondary levels. She informed the committee that tax levels either attract businesses to Montana or they drive them away. She believed the Montana tax levels have to be at a rate that will attract businesses.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 8}

Lana Faber has home schooled her children and she believes that they should qualify for the scholarships offered to accredited schools.

Darcy Kreamer stated that she is a home school mother and had recently paid off her college loans. She believed her children should be eligible for the scholarships. She presented written testimony. She presented opposition letters from Craig and Diana Doud and Vivian Heslep.

[EXHIBIT\(edh24a10\)](#)

[EXHIBIT\(edh24a11\)](#)

[EXHIBIT\(edh24a12\)](#)

Eric Schiedermayer, Montana Catholic Conference, related that the bill was a good idea and was much better with the amendments that had been offered in the hearing. He asked that the committee make a great idea even better by expanding the opportunity for another group of Montana's graduating seniors. He believed home school students should be eligible for the scholarship programs. He believed that statistics and personal experience clearly show that some extremely gifted young Montanans graduate every year from the alternate schools. The arguments from the other home school supporters were the same he would have given.

Informational Testimony:

Mark Bruno, Governor's Budget Office, reported on the fiscal note. He testified that in the first year the program would cost about \$1 million, in the second year it would cost \$2 million, and when it is fully implemented it will cost about \$2.5 million. Under the technical section on the fiscal note, he wished the committee to read, "'The Education Appropriation Subcommittee' has approved two decision packages (NP 101 and NP 102) for \$3,030,000 in HB 2. This funds the program at the needed level for the 2007 biennium."

Mick Hanson, Director of Financial Aid, University of Montana, informed the committee he was present to answer any questions it might have about financial aid.

{Tape: 2; Side: A; Approx. Time Counter: 8.0 - 14.8}

Questions from Committee Members and Responses:

REP. KOOPMAN required information from **REP. BRANAE**. He sought the SPONSOR's reaction to the suggestions by the opposition witnesses that the bill be amended in such a way as to accommodate home school children and private non-accredited private school graduates. **REP. KOOPMAN** was also interested in his reaction to awarding the scholarships according to ACT or SAT test results. **REP. BRANAE** stated that he wanted to keep the bill so that it benefitted all students, and not just the students at the top scholastically. The bill had been expanded to include accredited private schools. Accredited was placed in the bill so

that there were some standards by which to gauge decisions. Accredited schools do have those standards that can be used as gauges. **REP. BRANAE** said, "We are willing to consider any options with regard to anything in this bill. This bill has changed from the beginning to where it is now and there is that opportunity to consider other things." As he understood the bill, if a home school student or graduate from a non-accredited school was to enroll in a university system school, he/she would be eligible to apply for the scholarship after the first year after they have established a record that can be judged.

REP. KOOPMAN wondered if the scholarships could only apply to post-secondary institutions that are state institutions and would not apply to private colleges such as Carroll College. He inquired if it was intentional to leave out private colleges and if the SPONSOR would be open to allowing the scholarships to be taken to Montana private colleges. **REP. BRANAE** replied that the Montana Constitution specifically states that public monies cannot be used for private schools. The constitution would need an amendment.

{Tape: 2; Side: A; Approx. Time Counter: 14.8 - 18.4}

REP. KOOPMAN sought information from Commissioner Stearns. He wondered after hearing that the average college graduate has a debt of \$19,000, if the money offered as a scholarship in the bill, would make much of a dent in the student's college debt. **Commissioner Stearns** believed that the average of \$19,000 was for those students who take out loans. One of the aspects of the bill is that it might allow students to not take out loans. The student might have savings, etc. What most of these kinds of scholarships do is give the student the sense they have a chance to start thinking about school. Perhaps it would lower the \$19,000 debt to \$15,000, but every little bit helps.

REP. KOOPMAN continued seeking information from Commissioner Stearns. He said, "Some quarters of Montana society might level this bill as being somewhat elitist, the whole concept of 'The Best and Brightest.'" In previous testimony the Commissioner had testified that she would like to see post secondary school attendance in the high 90%. He said, "Some people might say, what about the 'worst and the dumbest?'" He ponders how the Commissioner might respond to these thoughts. **Commissioner Stearns** informed him that had the members of the Steering Committee on Access and Affordability been designing the bill from scratch, they probably would have tilted a little more toward need-base. The Governor designed the bill, and the Commissioner believed he had struck a middle ground between need-base and merit-base. It would be up to the Governor, the

Education Committee and the Legislature to decide if the middle ground had been reached.

{Tape: 2; Side: A; Approx. Time Counter: 18.4 - 23.8}

REP. LAKE sought information from **REP. BRANAE**. The **REPRESENTATIVE** was puzzled about the wording in the bill, "The Best and the Brightest." He thought students with that description received scholarships to colleges without the bill. **REP. BRANAE** agreed that those students with high test scores would receive more scholarship offers. He said, "The term, 'The Best and the Brightest,' is in the eye of the beholder." Parents think their children are the best and the brightest and he hoped that would be the connotation of the bill. He believed that it is true that most often scholarships are offered to students with the highest scores. He felt that the bill struck a balance of giving others an opportunity for scholarships.

REP. LAKE posed the situation in the selection process where the student was top of the class and that student had some fairly major out-of-state scholarship offers, if the state would be trying to lure the student back into the Montana system. The **REPRESENTATIVE** said he didn't want to get into a bidding process for the student who plans to go out of state. **REP. BRANAE** reported that there are other scholarships, such as the Montana University Honor Scholarship which students are awarded based on merit and achievement. He reported that any student receiving one of those scholarships would not be eligible for the scholarships in the bill. **REP. LAKE** asked, "Is that in the bill?" **REP. BRANAE** reported to the affirmative. **REP. LAKE** summarized that the bill isn't necessarily looking for the brightest kid in the class. **REP. BRANAE** said the bill was trying to entice and encourage as many students as possible to attend Montana's University System.

REP. LAKE required information from Mike Bruno. The **REPRESENTATIVE** said the bill looked like a long-term committed program for the state. He wondered if he was reading it correctly. **Mr. Bruno** said when the bill is fully implemented in the fourth year it will cost about \$2.5 million a year. **REP. LAKE** believed that there could easily be 360 students and if they all stayed eligible for four years, it would be a significant number. **Mr. Bruno** asked him to look at the fiscal note and at the merit-based component for four-year schools, he would see the fourth year is \$720,000. If the **REPRESENTATIVE** looked at the high schools under the need-based component which is only for two-year schools, it will max out in the second year at \$360,000.

REP. ANDERSEN desired information from **REP. BRANAE**. She wondered about a student that graduated from high school and had to go out of state because of the discipline he/she chose. Montana did not offer a program in his/her discipline. She wondered if that person would be excluded in the bill. **REP. BRANAE** said, "Yes, it would." He assured her that there were other programs where the student could find help.

Closing by Sponsor:

REP. BRANAE closed by saying many suggestions had been made and they would look at them with the Governor. He believed the bill had a great deal of possibilities and would help many students.
{Tape: 2; Side: A; Approx. Time Counter: 23.8 - 30}{Tape: 2; Side: B; Comments: Side B of the second tape was not used.}
{Tape: 3; Side: A}

REP. GALVIN-HALCRO called the meeting to order after a short break and reminded the committee that in a previous meeting it was suggested that the committee write a study resolution addressing all medications for a child in school rather than address one disease at a time like had been done with diabetes and asthma.

EXECUTIVE ACTION ON STUDY RESOLUTION ON SCHOOL MEDICATION

Motion: **REP. DOWELL** moved that the House Education Committee create a study resolution dealing with what medications a student should be allowed to bring to school for illnesses.

Discussion:

REP. VILLA asked if the newly created bill would include **HB 396**.

REP. GALVIN-HALCRO said it would not. The committee resolution would be for a study for the need of an all encompassing bill that would allow for certain medications in schools.

REP. DOWELL urged support for the idea. He believed it was an issue that had become increasingly problematic for schools where it is an issue to dispense medication for students as simple as a child's aspirin. A person has to be certified to do so.

REP. WARD informed the committee that he was comfortable with the idea talked about. Presently he was comfortable with how the legislature had dealt with medication on a one-to-one basis in the schools. He believed that because the advances in medicine

are so incredible and rapid, and also include some very horrible unintended mistakes, he would urge caution in trying to create a list which would speculate what the future might hold.

REP. ANDERSEN told the committee that her understanding about doing a resolution for study was that it would be voted on near the end of the session, and then would be assigned to a committee during the interim. It was her belief that medication should be handled one case at a time. She didn't believe there was a blanket policy that would fit the various kinds of medication that might need to be administered to a student in a school.

REPRESENTATIVE SALES called for the question.

Vote: Motion that the Education Committee create a study resolution for medications allowed to be dispensed in the schools failed 7-9 on a roll call vote with REPS. BRANAE, CAMPBELL, DOWELL, GRINDE, RASER, VILLA, GALVIN-HALCRO voting Aye.

EXECUTIVE ACTION ON HB 258

The executive action of **HB 258** was a continuation from a previous meeting. The action had been terminated because of an error on the amendment that was presented.

REP. GALVIN-HALCRO called on Eddy McClure to explain the amendment to the bill. **Ms. McClure** said the previous amendment had been withdrawn and she had apologized to REP. KOOPMAN for the error she had written into that amendment. **Ms. McClure** said she was passing out a corrected amendment for the bill.

REP. KOOPMAN asked if it was necessary to take the first amendment (HB025801, January 21, 2005, 6:15 P.M.) off the bill as the committee didn't notice the error in it when they voted. **Ms. McClure** said she would prefer that the committee removed the incorrect amendment and replace it with the correct one.

Motion: REP. KOOPMAN moved that the amendment(HB025801, January 21, 2005 (6:15 A.M.)) to HB 258 be removed from the bill. Motion carried unanimously by voice vote.

Motion: REP. KOOPMAN moved that HB 258 DO PASS.

Motion: REP. KOOPMAN moved that HB 258 BE AMENDED.
EXHIBIT(edh24a13)

Discussion:

REP. CAMPBELL informed the committee that she felt the amendment guts the intention of the bill. The intention was to give American Indian educators a level playing field in the school district, and the bill now says only the case of "...an American Indian Studies Curriculum Director of Teachers... that are dealing with at least 50% instruction dedicated to Indian studies...." and that wasn't the intention of the bill. For that reason she opposed the amendment.

Vote: Motion to amend HB 258 passed 9-7 on a roll call vote with REPS. BRANAE, CAMPBELL, GRINDE, RASER, VILLA, WARD, and WINDHAM voting no.

REP. KOOPMAN said that the spirit of the amendment that he offered was to be sensitive to the need for role models in front of American Indian students and also non-Indian students with regard to the areas that are unique studies of American Indian Culture and he believed they were areas that an Indian teacher with Indian background would be able to handle that course work. He said he was not comfortable with a broad preference policy regarding other curriculum areas.

REP. VILLA opposed the amendment for several reasons. He believed the amendment went against the Indian Education For All Act. He felt "all" didn't mean just Indians on or around reservations. He said it meant all Montana students. The amendment basically goes against the intent of enacted legislation. He said MCA 2-18-111 already allows for hiring preference on or near reservations for American Indians for state employees. He felt the bill aligns school districts with the same laws that are in place currently for Montana State Employees on or near the reservations. The amendment strips that preference and goes against the intent of other pieces of legislation that have been passed by the legislature. It muddies the waters and provides for more inconsistencies across the state.

REP. WARD related that he opposed the amendment. It suggests more hours be added to the school day or drop some core curriculum study to accommodate what the amendment calls for. If schools adopt an American Indian Studies Curriculum Director or teacher, to teach only Indian studies, those studies would not be incorporated into social studies or history. It would allow the Indian studies to be incorporated into the rest of the curriculum.

Motion: REP. SALES moved that HB 258 DO PASS AS AMENDED.

Discussion:

REP. LAKE informed the committee that he had the same questions during the last session. He considered a school board that is predominately of one culture or another, has total control over the hiring of the district employees. The **REPRESENTATIVE** does not believe in the hiring practice of giving one candidate preference over another. A person should be hired for a job and no other reason. He will oppose the bill.

REP. SONJU concurred with REP. LAKE. He said that during the hearing REP. SALES brought up a good point that the bill could be a step towards a quota system. He did not want that in Montana.

REP. KOOPMAN said that he intended to support the bill as amended. He wondered about the 14th Amendment of the United State Constitution prohibiting racial classifications in public policy, unless it is demonstrated that it is a compelling state interest to establish that racial classification. He asked if there was any concern about the constitutionality of the bill based on it dealing with racial classification.

Ms. McClure said if he looked at the "...where as..." clauses in the bill, American Indian people, based on federal law, are not included because of their racial makeup, it is because they are political bodies.

REP. ANDERSEN believed that currently school boards in the state have the ability to decide between two people who are equally qualified. If a school board is inclined to think there is a person of one ethnic background that might be better able to relate to the students, the board can hire that person. She had a problem with the wording "...substantially equal qualifications...." She wondered what qualifications would be considered.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 30}

{Tape: 3; Side: B}

REP. MCKENNEY informed the committee that he would oppose the bill. He agreed with REP. LAKE's remarks. He reminded the committee that they had heard testimony from one of the reservation school districts where the school board and the superintendent made a concentrated effort in bringing qualified teachers back home. They were very successful in bringing qualified tribal members into the school system as teachers. In his opinion the bill wasn't needed.

REP. BUTCHER contended that the committee is going in the wrong direction. The constitution directs the teaching of Indian history or culture in history and sociology classes. To get into hiring practices would stretch the constitutional issue. It would be an incredible disservice to pass legislation like the bill that is taking away the control of the elected school boards. It is back to the issue of, "Who is running the school?" In his opinion, "This is the wrong way to go."

REP. WARD said he appreciated **REP. MCKENNEY'S** comments. He recalled the gentleman who said that in their case, money wasn't an issue, they had trouble finding teachers because of their isolation. The bill doesn't address that problem.

REP. WINDHAM addressed **REP. BUTCHER'S** comment about taking control away from the school district. It caught her attention because the bill uses the word "may" and that means the school districts do not have to give preference.

Vote: Do pass HB 258 as amended motion failed 8-8 with **REPS. BRANAE, CAMPBELL, DOWELL, GRINDE, RASER, VILLA, WINDHAM, and GALVIN-HALCRO** voting aye in a roll call vote.

EXECUTIVE ACTION ON HB 336

Motion: **REP. BRANAE** moved that HB 336 DO PASS.

Motion: **REP. BRANAE** moved that HB 336 BE AMENDED.

Discussion:

REP. GALVIN-HALCRO asked Eddy McClure to explain the amendments. [**EXHIBIT**\(edh24a14\)](#)

Ms. McClure reminded the committee that during the hearing one of the problematic areas at that time was tying the request to the Average Number Belonging (ANB) which is tied to enrollment. It is taken two times a year. The bill is talking about children with disabilities attending a school after graduation. They are not going to be enrolled. Section 1 of the bill authorized the school district to allow them to come back. The sponsor of the bill wanted the students to be able to go back to high school, if the school district allowed the student that service, or to allow financial assistance for that person. It allows the Department of Public Health and Human Service (DPHHS) to pay a school that does admit a student back after graduation or a direct cash assistance to an individual to purchase the community based services or possibly using money for a match with federal money.

Vote: The motion to amend carried 15-1 by voice vote with REP. SALES voting no and REP. VILLA voting by proxy.

Motion/Vote: REP. BRANAE moved that HB 336 DO PASS AS AMENDED. Motion carried 12-4 by roll call vote with REPS. KOOPMAN, LAKE, SALES, and SONJU voting no. REP. VILLA voted by proxy.

EXECUTIVE ACTION ON HB 396

Motion: REP. GRINDE moved that HB 396 DO PASS.

Eddye McClure handed out amendments for the bill.
[EXHIBIT](#)(edh24a15)

Motion: REP. GRINDE moved that HB 396 BE AMENDED.

Discussion:

Chris Lohse was asked to explain the amendments. Mr Lohse explained the wording.

Vote: The motion to amend HB 396 passed 16-0 by voice vote.

Motion/Vote: REP. GRINDE moved that HB 396 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 5:20 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

NINA ROATCH-BARFUSS, Secretary

KG/nb

Additional Exhibits:

EXHIBIT ([edh24aad0.TIF](#))